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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

ROBERT LEE SPRATLIN,

Defendant and Appellant.

B206601

(Los Angeles County
Super. Ct. No. TA088262)

APPEAL from an order of the Superior Court of Los Angeles County,
John Joseph Cheroske, Judge. Affirmed.

William L. Heyman, under appointment by the Court of Appeal, for Defendant
and Appellant.

Edmund G. Brown Jr., Attorney General, Pamela C. Hamanaka, Assistant
Attorney General, Scott A. Taryle and E. Carlos Dominguez, Deputy Attorneys General,
for Plaintiff and Respondent.

After the trial court denied his motion to suppress evidence under Penal Code section 1538.5, appellant Robert Lee Spratlin pled no contest to one count of possession of a firearm by a felon, in violation of Penal Code section 12021, subdivision (a)(1). Spratlin appeals the denial of his motion to suppress, arguing that the parole search violated the Fourth Amendment because there was insufficient evidence that he lived at the address where the search occurred. We affirm.

FACTS

An information dated February 14, 2007 charged Spratlin with possession of a firearm by a felon, in violation of Penal Code section 12021, subdivision (a)(1), along with two other counts.¹ Spratlin pled not guilty and moved to suppress the evidence, including an assault weapon, found in a parole search of an apartment on Denver Avenue in Gardena.

At the hearing on Spratlin's motion to suppress evidence on April 5, 2007, Parole Officer Jesus Sanchez testified that when he took over as Spratlin's parole agent in June of 2006, the address on file for Spratlin was 636 Hill Street, Apartment 3, in Inglewood. Although Officer Sanchez visited the Hill Street address at least three times, there was never anyone home. The prior agent, however, had visited the Hill Street address, found Spratlin there with his clothing, and verified it as Spratlin's residence in May 2006, when Spratlin was first paroled. Spratlin initially had tried to use his wife's address, 16517 Denver Avenue, Apartment 2, in Gardena. He was directed to find another place to live, however, because his wife had a restraining order against him.

Sheriff's Detective Joseph Garrido testified that he worked in the gang unit of the Lennox Sheriff Station. Detective Garrido drove past the Denver Avenue address and

¹ The information also charged Spratlin with possession of an assault weapon in violation of Penal Code section 12280, subdivision (b), and resisting, obstruction, and delaying of a peace officer in violation of Penal Code section 148, subdivision (a)(1).

saw Spratlin's Cadillac in the driveway.² Garrido ran Spratlin's record on a web site named Parole Leads, which listed the Denver Avenue address as one of Spratlin's prior addresses. The next day, August 16, 2006, Detective Garrido went to the Denver Avenue address to conduct a parole search. He saw Spratlin enter the apartment.

When Detective Garrido and his team walked up to the open door and Garrido announced, "We're here to do a parole search," Spratlin yelled, "Get the fuck out of my house" several times. Spratlin approached the officers aggressively, disobeying their orders to turn around. Officer Garrido pepper sprayed him, and Spratlin said, "Don't do this in front of my son" (his stepson Deantre Scott was in the room). The officers allowed Spratlin to step outside, and after a short struggle the officers took Spratlin to the ground and handcuffed him.

The officers then searched the Denver Avenue apartment. They found a cartoon drawing of Spratlin on the wall, and mail addressed to Robert Spratlin at the Denver Avenue address. In the car was a purchase agreement for the Cadillac in Spratlin's name, using the Denver Street address. A framed copy of Spratlin's marriage certificate was in one of the two bedrooms. In the bedroom closet was male clothing that looked like it would fit Spratlin on one side, and female clothing on the other side. Next to the male clothing in the bedroom closet, the officers found a loaded SKS assault rifle.

The officers took Spratlin to the hospital in the patrol car. The booking sheet filled out by another deputy on the way listed the Denver Avenue address. While in the car, Spratlin said he didn't live at the Denver address and "it was going to be a D.A. reject."

Spratlin's mother, Gwendolyn January, testified that Spratlin moved in with her at the Hill Street address in Inglewood when he was paroled in May 2006. He slept on her living room couch, next to which he kept clothes in a chest of drawers and his bed linens

² Detective Garrido testified that he ran the plates on the Cadillac and that Spratlin came up as the owner, although on cross-examination, he said he didn't remember whether he ran the plates.

in a plastic container. He hung other clothes in a closet he shared with her. Photographs of all these were in evidence, as well as a Social Security document addressed to Spratlin at the Hill Street address. January testified that Spratlin did not sleep overnight anywhere else as far as she knew, but she was asleep sometimes when he came home. She confirmed that Spratlin owned the Cadillac.

Spratlin then testified that his residence on the date of the search was his mother's Hill Street address. He had gone over to the Denver Avenue address on the day of the parole search because his 12-year-old stepson, Deantre Scott, called at about 5:00 or 5:30 p.m. to say that he was there with his uncle and had nothing to eat and no money. Spratlin drove to Denver Avenue and gave Deantre's uncle some money to buy food. Spratlin stayed with Deantre to help him with his homework, while the uncle went to a burger stand.

When the sheriff's deputies arrived to do the parole search, Spratlin told the deputies he didn't live there. He didn't remember whether he told the deputies his correct address. He kept no personal items or clothing at the Denver Avenue address. The cartoon was a gift from him to the children, and his estranged wife lived there with a boyfriend who had his own key. He identified a photo of his biological son, Robert Spratlin, Jr., and explained that he was "not a small child" who wore "seven, eight, extra large, maybe" clothing.

Spratlin testified that the Denver Avenue address was on the car purchase contract and bills because, due to his bad reading and spelling, his wife filled out the majority of his contracts. He identified the sofa at the Hill Street address as where he slept. He admitted the restraining order prohibited him from being at the Denver Avenue address, and that the order followed Spratlin's "infliction of corporal injury" on his wife in 2005 and 2003.

Spratlin explained that Deantre, his 12-year-old stepson, and Robert, his 14-year-old biological son, lived with their mother at the Denver Avenue address. On the day of the search, Spratlin went over to the Denver Avenue address around 5:00 p.m. Robert then left with the uncle to buy food, and they did not return until the deputies were

already there. Spratlin claimed the deputies arrived at around 6:00 p.m. The prosecution then called Detective Garrido, who testified that they had arrived at 8:00 p.m. as documented on the police report, and that Robert did not show up during the deputies' presence.

The defense argued that the Denver Avenue address was not Spratlin's residence, and therefore not subject to a parole search. The prosecution argued that the Denver Avenue address was subject to a parole search as Spratlin's residence, and that if it was not his residence, Spratlin had no reasonable expectation of privacy under the Fourth Amendment.

The trial court concluded, "[i]t's the court's belief, almost uncontroverted in the court's mind, that Mr. Spratlin did live at this particular address: 16517 Denver, No. 2, in Gardena." The court stated that "from the time he took the witness stand until the time he left, his credibility was questionable in my eyes."

The trial court denied the motion to suppress. Spratlin then pled no contest to one count of possession of a firearm by a felon, in violation of Penal Code section 12021. He received a suspended sentence of five years in state prison, and three years of formal probation with terms and conditions including a time-served sentence in Los Angeles County Jail.

DISCUSSION

Penal Code section 3067, subdivision (a), provides that all those on parole from state prison "shall agree in writing to be subject to search or seizure by a parole officer or other peace officer at any time of the day or night, with or without a search warrant and with or without cause." Law enforcement is entitled to search the parolee, the parolee's residence, and any property under the parolee's control. (See Cal. Code Regs., tit. 15, § 2511, subd. (b)(4).) The search is reasonable and not in violation of an expectation of privacy, as long as the officer knows that the defendant is on parole subject to a search condition. (*People v. Sanders* (2003) 31 Cal.4th 318, 333.) Spratlin does not dispute that he was on parole on August 16, 2006, the day of the search, or that he signed an agreement, and thus was subject to a valid search condition. He argues that there was not

substantial evidence that Detective Garrido reasonably believed that the Denver Street apartment was his residence.

On appeal of the denial of a motion to suppress, “[w]e defer to the trial court’s factual findings, express or implied, where supported by substantial evidence.” (*People v. Sardinias* (2009) 170 Cal.App.4th 488, 493.) “[T]he power to judge the credibility of the witnesses, resolve any conflicts in the testimony, weigh the evidence and draw factual inferences, is vested in the trial court.” (*People v. Middleton* (2005) 131 Cal.App.4th 732, 738.) “Whether a search is constitutionally reasonable, however, is a legal question upon which we exercise our independent judgment.” (*People v. Medina* (2007) 158 Cal.App.4th 1571, 1575.)

Before a law enforcement officer conducts a valid warrantless parole search, he or she must reasonably believe that the place to be searched is the parolee’s residence or is property under the parolee’s control. The question is whether the facts support the conclusion that before the search took place, Detective Garrido reasonably believed that the Denver Avenue address was Spratlin’s residence. (*People v. Woods* (1999) 21 Cal.4th 668, 682.)

Detective Garrido was aware of Spratlin’s identity and his parole search condition. He saw the Cadillac in the Denver Avenue driveway and, although he could not remember whether he ran the plates, he testified that he then checked Spratlin’s record and found that Denver Avenue was a prior address. When he arrived the next day with the other officers, Detective Garrido saw Spratlin enter the apartment, and when Garrido was outside the door, Spratlin shouted repeatedly, “Get the fuck out of my house.” Not until then did the officers enter to perform the search.

The trial court resolved the conflicts in the evidence regarding Spratlin’s residence and concluded that Spratlin was not credible when he claimed he lived at the Hill Street address. Detective Garrido saw Spratlin’s car at Denver Avenue, saw that the address was in Spratlin’s record as a prior address, saw Spratlin enter the apartment, and heard Spratlin order him “out of my house.” Substantial evidence in the record supports the

conclusion that Detective Garrido reasonably believed that the Denver Avenue address was Spratlin's residence.

We affirm the trial court's denial of Spratlin's motion to suppress the evidence seized in the parole search.

DISPOSITION

We affirm the denial of the motion to suppress.

NOT TO BE PUBLISHED.

WEISBERG, J.*

We concur:

MALLANO, P. J.

ROTHSCHILD, J.

* Retired Judge of the Los Angeles Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.